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September 23, 2010

Mr. Russell G. Golden
FASB Technical Director
Financial Accounting Standards Board
401 Merritt 7
PO Box 5116
Norwalk, CT 06856-5116

File Reference No. 1840-100

Dear Mr. Golden:

We are pleased to comment on the proposed Financial Accounting Standards Board (FASB) Accounting Standards Update (ASU), *Contingencies (Topic 450)—Disclosures of Certain Loss Contingencies*.

We agree with the Board's objective to provide adequate and timely information to assist users in assessing the likelihood, timing and magnitude of future cash outflows associated with loss contingencies. However, we continue to have significant concerns related to the disclosure requirements of the proposed ASU. Our main concerns are:

We believe that the disclosures would be burdensome, costly to prepare and may, in some cases, be prejudicial. In paragraphs BC 49 to BC 52 of the proposed ASU, the basis for conclusions discusses the benefits and costs of the proposal. In paragraph BC 49, the Board acknowledges that its ". . . assessment of the costs and benefits of issuing accounting guidance is unavoidably more qualitative than quantitative because there is no method to objectively measure the costs to implement accounting guidance or to quantify the value of improved information in financial statements." We believe there is indeed a way to objectively measure the costs of implementation, albeit only in hindsight. The costs to implement are "real," while the "value of improved information in financial statements," particularly in the case of this standard, may be esoteric. It is our belief that the direct costs of implementation are significant and, therefore, we believe that they are likely to outweigh any benefit resulting from the implementation.

When the costs to prepare are considered in light of the numerous additional standards that the Board is proposing, as well as additional disclosure-related obligations stemming from the recent financial reform (for public companies), the cost/benefit analysis becomes, in our opinion, even further skewed. Additionally, the cost benefit analysis should consider the potential costs resulting from disclosure of prejudicial information. We continue to have concerns related to certain of the proposed disclosures, which we believe have the potential to limit a reporting entity's defense against claims.

Finally, we are concerned that the proposed disclosures may not be "auditable." The American Bar Association (ABA) Statement of Policy Regarding Lawyers' Responses to Auditors' Requests for Information," along with Statement on Auditing Standards No.12, (together, "the treaty") does not address a number of the disclosures included in the proposed ASU. While we note that the proposed ASU (in the "Summary and Questions for Respondents" section) states that:

The FASB staff will continue to work with the Public Company Accounting Oversight Board, the American Institute for Certified Public Accountants, and the American Bar Association (ABA) to identify and address any potential implications of the proposed requirements for

the U.S. auditing literature and the ABA's Statement of Policy Regarding Lawyers' Responses to Auditors' Requests for Information.

However, until a resolution is reached, it is unlikely that auditors will be able to obtain sufficient evidence to audit disclosures related to contingencies. For this reason, we recommend that the Board finalize its work with these entities prior to issuance of the proposed ASU. Further, we suggest that, once an agreement is reached with the ABA as to what information they would agree to provide, a "field test" be conducted to assess whether that information meets the requirements of the exposure draft.

Our concerns are discussed in more detail in our responses to individual questions below.

Question 1: Are the proposed disclosures operational? If not, please explain why.

We do not believe that certain of the disclosures are operational. We believe the proposed disclosures would be very costly and burdensome to prepare, and are likely to be prejudicial. We believe that the information required by the proposed disclosures will restrain entities' ability to present defenses against lawsuits.

For example, requiring disclosure of information related to possible recoveries from insurance could result in a number of potential adverse consequences for the reporting entity. First, making such a disclosure would seem to establish a minimum for the plaintiff to request. Secondly, additional lawsuits might be filed against the reporting entity (by plaintiffs that become aware of the entity's insurance coverage), or plaintiffs may file claims for amounts in excess of coverage in an attempt to "coerce" the entity into settling.

Another potentially prejudicial disclosure would be the requirement to disclose the amount accrued for a contingency (along with the tabular reconciliation). This disclosure would likely establish a minimum amount that a plaintiff would settle for.

Question 2: Are the proposed disclosures auditable? If not, please explain why.

We believe that certain of the disclosures are not auditable absent agreement with the ABA on what would be provided to the auditors.

Question 3: The June 2008 FASB Exposure Draft, Disclosure of Certain Loss Contingencies, had proposed certain disclosures based on management's predictions about a contingency's resolution. The amendments in this proposed Update would eliminate those disclosure requirements such as estimating when a loss contingency would be resolved and the entity's maximum exposure to loss. Do you agree that an explicit exemption from disclosing information that is "prejudicial" to the reporting entity is not necessary because the amendments in this proposed Update would:

- a. Not require any new disclosures based on management's predictions about a contingency's resolution***
- b. Generally focus on information that is publicly available***
- c. Relate to amounts already accrued in the financial statements***
- d. Permit information to be presented on an aggregated basis with other similar loss contingencies?***

If not, please explain why.

We do not believe that the amendments in this proposed ASU Update have sufficiently addressed our concerns related to required disclosure of potentially prejudicial information. We recommend that the proposal be reconsidered in its entirety and, at a minimum, we recommend inclusion in the final ASU of a specific exemption from disclosure of prejudicial information.

Question 4: Is the proposed effective date operational? If not, please explain why.

If a final ASU is issued in the fourth quarter of 2010, we do not believe an effective date of fiscal years ending after December 15, 2010 is operational. We believe that the proposed disclosures would require a significant amount of effort on the part of both reporting entities and auditors. In addition, the time to educate the legal profession about the expanded requirements could take an extended period of time and, if the audit standards for private or public companies are modified or interpreted to address the new requirements, those changes will take time to understand, communicate and train on.

Question 5: Do you believe that the proposed disclosures will enhance and improve the information provided to financial statement users about the nature, potential magnitude, and potential timing (if known) of loss contingencies?

While we acknowledge that the proposed disclosures would provide more information to users of financial statements, we are concerned about the costs associated with the disclosures—both the actual costs of obtaining the information and the potential costs of disclosing the prejudicial information. We are also concerned about the auditability of the disclosures.

Question 6: Do you agree that nonpublic entities should be exempt from the tabular reconciliation disclosures required in the amendments in this proposed Update? If not, please explain why. Are there any other aspects of the amendments that should be applied differently to nonpublic entities? If so, please identify and explain why.

We would recommend that the tabular reconciliation be eliminated for all entities. We believe that presenting a rollforward of amounts might be prejudicial in that plaintiffs might be able to determine a reporting entity's defense strategy from information presented in the rollforward.

If the Board elects to retain the tabular reconciliation in the final standard, we agree with the exemption for nonpublic entities.

Question 7: The amendments in this proposed Update would defer the effective date for nonpublic entities for one year. Do you agree with the proposed deferral?

If not, please explain why.

Due to the significant implementation effort involved, we believe that the effective date should be no sooner than one year after the final issuance date for all entities.

We would be pleased to respond to any questions the Board or its staff may have concerning our comments. Please direct any questions to either Jay D. Hanson (952-921-7785) or Richard K. Stuart (203-905-5027).

Sincerely,



McGladrey & Pullen, LLP